



Sen. John M. Sullivan

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1 AMENDMENT TO HOUSE BILL 2628

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2628 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by  
5 changing Sections 2-17 and 2-17.1 and by adding Sections  
6 2-17.2, 2-17.3, 2-17.4, 2-17.5, and 2-17.6 as follows:

7 (705 ILCS 405/2-17) (from Ch. 37, par. 802-17)

8 Sec. 2-17. Guardian ad litem.

9 (1) Immediately upon the filing of a petition alleging that  
10 the minor is a person described in Sections 2-3 or 2-4 of this  
11 Article, the court shall appoint a guardian ad litem for the  
12 minor if:

13 (a) such petition alleges that the minor is an abused  
14 or neglected child; or

15 (b) such petition alleges that charges alleging the  
16 commission of any of the sex offenses defined in Article 11

1 or in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50,  
2 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the  
3 Criminal Code of 1961 or the Criminal Code of 2012, have  
4 been filed against a defendant in any court and that such  
5 minor is the alleged victim of the acts of defendant in the  
6 commission of such offense.

7 Unless the guardian ad litem appointed pursuant to this  
8 paragraph (1) is an attorney at law he shall be represented in  
9 the performance of his duties by counsel. The guardian ad litem  
10 shall represent the best interests of the minor and shall  
11 present recommendations to the court consistent with that duty.

12 (2) Before proceeding with the hearing, the court shall  
13 appoint a guardian ad litem for the minor if

14 (a) no parent, guardian, custodian or relative of the  
15 minor appears at the first or any subsequent hearing of the  
16 case;

17 (b) the petition prays for the appointment of a  
18 guardian with power to consent to adoption; or

19 (c) the petition for which the minor is before the  
20 court resulted from a report made pursuant to the Abused  
21 and Neglected Child Reporting Act.

22 (3) The court may appoint a guardian ad litem for the minor  
23 whenever it finds that there may be a conflict of interest  
24 between the minor and his parents or other custodian or that it  
25 is otherwise in the minor's best interest to do so.

26 (4) Unless the guardian ad litem is an attorney, he shall

1 be represented by counsel.

2 (5) The reasonable fees of a guardian ad litem appointed  
3 under this Section shall be fixed by the court and charged to  
4 the parents of the minor, to the extent they are able to pay.  
5 If the parents are unable to pay those fees, they shall be paid  
6 from the general fund of the county.

7 (6) A guardian ad litem appointed under this Section, shall  
8 receive copies of any and all classified reports of child abuse  
9 and neglect made under the Abused and Neglected Child Reporting  
10 Act in which the minor who is the subject of a report under the  
11 Abused and Neglected Child Reporting Act, is also the minor for  
12 whom the guardian ad litem is appointed under this Section.

13 (7) The appointed guardian ad litem shall remain the  
14 child's guardian ad litem throughout the entire juvenile trial  
15 court proceedings, including permanency hearings and  
16 termination of parental rights proceedings, unless there is a  
17 substitution entered by order of the court.

18 (8) The guardian ad litem or an agent of the guardian ad  
19 litem shall have a minimum of one in-person contact with the  
20 minor and one contact with one of the current foster parents or  
21 caregivers prior to the adjudicatory hearing, and at least one  
22 additional in-person contact with the child and one contact  
23 with one of the current foster parents or caregivers after the  
24 adjudicatory hearing but prior to the first permanency hearing.  
25 The guardian ad litem or an agent of the guardian ad litem  
26 shall have ~~and~~ one additional in-person contact with the child

1 and one contact with one of the current foster parents or  
2 caregivers each subsequent year, but if the child's parent or  
3 caregiver has been the subject of at least 3 indicated reports  
4 filed under the Abused and Neglected Child Reporting Act then  
5 the guardian ad litem or an agent of the guardian ad litem  
6 shall have a minimum of one additional in-person contact with  
7 the child and one contact with one of the current foster  
8 parents or caregivers once every 3 months. For good cause  
9 shown, the judge may excuse face-to-face interviews required in  
10 this subsection.

11 (9) In counties with a population of 100,000 or more but  
12 less than 3,000,000, each guardian ad litem must successfully  
13 complete a training program approved by the Department of  
14 Children and Family Services. The Department of Children and  
15 Family Services shall provide training materials and documents  
16 to guardians ad litem who are not mandated to attend the  
17 training program. The Department of Children and Family  
18 Services shall develop and distribute to all guardians ad litem  
19 a bibliography containing information including but not  
20 limited to the juvenile court process, termination of parental  
21 rights, child development, medical aspects of child abuse, and  
22 the child's need for safety and permanence.

23 (Source: P.A. 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)

24 (705 ILCS 405/2-17.1)

25 Sec. 2-17.1. Court appointed special advocate.

1           (1) The court may appoint a special advocate upon the  
2 filing of a petition under this Article or at any time during  
3 the pendency of a proceeding under this Article. Except in  
4 counties with a population over 3,000,000, the court appointed  
5 special advocate may also serve as guardian ad litem by  
6 appointment of the court under Section 2-17 of this Act. The  
7 court shall not deny a petition to appoint a special advocate  
8 for the sole reason that the child is not or has not been in  
9 foster care.

10           (2) The court appointed special advocate shall act as a  
11 monitor and shall be notified of all administrative case  
12 reviews pertaining to the minor and work with the parties'  
13 attorneys, the guardian ad litem, and others assigned to the  
14 minor's case to protect the minor's health, safety and best  
15 interests and insure the proper delivery of child welfare  
16 services. The court may consider, at its discretion, testimony  
17 of the court appointed special advocate pertaining to the  
18 well-being of the child.

19           (3) Court appointed special advocates shall serve as  
20 volunteers without compensation and shall receive training  
21 consistent with nationally developed standards.

22           (4) No person convicted of a criminal offense as specified  
23 in Section 4.2 of the Child Care Act of 1969 and no person  
24 identified as a perpetrator of an act of child abuse or neglect  
25 as reflected in the Department of Children and Family Services  
26 State Central Register shall serve as a court appointed special

1 advocate.

2 (5) All costs associated with the appointment and duties of  
3 the court appointed special advocate shall be paid by the court  
4 appointed special advocate or an organization of court  
5 appointed special advocates. In no event shall the court  
6 appointed special advocate be liable for any costs of services  
7 provided to the child.

8 (6) The court may remove the court appointed special  
9 advocate or the guardian ad litem from a case upon finding that  
10 the court appointed special advocate or the guardian ad litem  
11 has acted in a manner contrary to the child's best interest or  
12 if the court otherwise deems continued service is unwanted or  
13 unnecessary.

14 (7) In any county in which a program of court appointed  
15 special advocates is in operation, the provisions of this  
16 Section shall apply unless the county board of that county, by  
17 resolution, determines that the county shall not be governed by  
18 this Section.

19 (8) Any court appointed special advocate acting in good  
20 faith within the scope of his or her appointment shall have  
21 immunity from any civil or criminal liability that otherwise  
22 might result by reason of his or her actions, except in cases  
23 of willful and wanton misconduct. For the purpose of any civil  
24 or criminal proceedings, the good faith of any court appointed  
25 special advocate shall be presumed.

26 (Source: P.A. 90-28, eff. 1-1-98; 90-608, eff. 6-30-98; 91-357,

1 eff. 7-29-99.)

2 (705 ILCS 405/2-17.2 new)

3 Sec. 2-17.2. Powers and duties of guardian ad litem.

4 (a) A guardian ad litem appointed to represent a child:

5 (1) shall:

6 (A) within a reasonable time after the  
7 appointment, interview:

8 (i) the child in a developmentally appropriate  
9 manner, if the child is 4 years of age or older;

10 (ii) each person who has significant knowledge  
11 of the child's history and condition, including  
12 any foster parent of the child; and

13 (iii) the parties to the proceeding;

14 (B) seek to elicit in a developmentally  
15 appropriate manner the child's expressed objectives of  
16 representation;

17 (C) consider the impact on the child in formulating  
18 the presentation of the child's expressed objectives  
19 of representation to the court;

20 (D) investigate the facts of the case to the extent  
21 the guardian ad litem considers appropriate;

22 (E) obtain and review copies of relevant records  
23 relating to the child as provided by Section 2-17.6;

24 (F) participate in the conduct of the proceedings  
25 to the same extent as an attorney for a party;

1           (G) take any action consistent with the child's  
2           interests that the guardian ad litem considers  
3           necessary to expedite the proceedings;

4           (H) encourage settlement and the use of  
5           alternative forms of dispute resolution;

6           (I) review and sign, or decline to sign, a proposed  
7           or agreed order affecting the child;

8           (J) review the medical care provided to the child  
9           and in a developmentally appropriate manner, seek to  
10          elicit the child's opinion on the medical care  
11          provided; and

12          (K) become familiar with the American Bar  
13          Association's standards of practice for attorneys who  
14          represent children in abuse and neglect cases, the  
15          suggested amendments to those standards adopted by the  
16          National Association of Counsel for Children, and the  
17          American Bar Association's standards of practice for  
18          attorneys who represent children in custody cases;

19          (2) must be trained in child advocacy or have  
20          experience determined by the court to be equivalent to that  
21          training; and

22          (3) is entitled to:

23                 (A) request clarification from the court if the  
24                 role of the guardian ad litem is ambiguous;

25                 (B) request a hearing or trial on the merits;

26                 (C) consent or refuse to consent to an interview of

1 the child by another attorney;

2 (D) receive a copy of each pleading or other paper  
3 filed with the court;

4 (E) receive notice of each hearing regarding the  
5 child;

6 (F) participate in any case staffing concerning  
7 the child conducted by an authorized agency; and

8 (G) attend all legal proceedings regarding the  
9 child.

10 (b) Except as otherwise provided by this Section, the  
11 guardian ad litem appointed for a child shall, in a  
12 developmentally appropriate manner:

13 (1) advise the child; and

14 (2) represent the child's expressed objectives of  
15 representation and follow the child's expressed objectives  
16 of representation during the course of proceedings if the  
17 guardian ad litem determines that the child is competent to  
18 understand the nature of an attorney-client relationship  
19 and has formed that relationship with the guardian ad  
20 litem.

21 (c) Except as provided by subsection (e), a guardian ad  
22 litem appointed for a child shall:

23 (1) meet before each court hearing with:

24 (A) the child, if the child is at least 4 years of  
25 age; and

26 (B) the individual or individuals with whom the

1 child ordinarily resides, including the child's  
2 parent, conservator, guardian, caretaker, or  
3 custodian; and

4 (2) if the child or individual is not present at the  
5 court hearing, file a written statement with the court  
6 indicating that the guardian ad litem complied with  
7 paragraph (1) of this subsection (c).

8 (d) A meeting required by subsection (c) must take place:

9 (1) a sufficient time before the hearing to allow the  
10 guardian ad litem to prepare for the hearing in accordance  
11 with the child's expressed objectives of representation;  
12 and

13 (2) in a private setting that allows for confidential  
14 communications between the guardian ad litem and the child  
15 or individual with whom the child ordinarily resides, as  
16 applicable.

17 (e) A guardian ad litem appointed for a child is not  
18 required to comply with subsection (c) before a hearing if the  
19 court finds at that hearing that the guardian ad litem has  
20 shown good cause why the guardian ad litem's compliance with  
21 that subsection is not feasible or in the best interest of the  
22 child. Additionally, a court may, on a showing of good cause,  
23 authorize a guardian ad litem to comply with subsection (c) by  
24 conferring with the child or other individual, as appropriate,  
25 by telephone or video conference.

1 (705 ILCS 405/2-17.3 new)

2 Sec. 2-17.3. Substituted judgment of attorney for child.

3 (a) A guardian ad litem appointed to represent a child may  
4 determine that the child cannot meaningfully formulate the  
5 child's objectives of representation in a case because the  
6 child:

7 (1) lacks sufficient maturity to understand and form an  
8 attorney-client relationship with the guardian ad litem;

9 (2) despite appropriate legal counseling, continues to  
10 express objectives of representation that would be  
11 seriously injurious to the child; or

12 (3) for any other reason is incapable of making  
13 reasonable judgments and engaging in meaningful  
14 communication.

15 (b) A guardian ad litem who determines that the child  
16 cannot meaningfully formulate the child's expressed objectives  
17 of representation may present to the court a position that the  
18 guardian ad litem determines will serve the best interests of  
19 the child.

20 (705 ILCS 405/2-17.4 new)

21 Sec. 2-17.4. Discipline of guardian ad litem. A guardian ad  
22 litem who is an attorney and who fails to perform the duties  
23 required by Sections 2-17 and 2-17.2 is subject to disciplinary  
24 action in accordance with the Illinois Supreme Court Rules of  
25 Professional Conduct.

1 (705 ILCS 405/2-17.5 new)

2 Sec. 2-17.5. Duties of court appointed special advocate.

3 (a) Subject to any specific limitation in the order of  
4 appointment, a court appointed special advocate shall advocate  
5 the best interests of the child after reviewing the facts and  
6 circumstances of the case. In determining the best interests of  
7 the child, a court appointed special advocate shall consider  
8 the child's expressed objectives of representation.

9 (b) A court appointed special advocate shall, in a  
10 developmentally appropriate manner:

11 (1) with the consent of the child, ensure that the  
12 child's expressed objectives of representation are made  
13 known to the court;

14 (2) explain the role of the court appointed special  
15 advocate to the child; and

16 (3) inform the child that the court appointed special  
17 advocate may use information that the child provides in  
18 providing assistance to the court.

19 (c) A court appointed special advocate shall become  
20 familiar with the American Bar Association's standards of  
21 practice for attorneys who represent children in custody cases.

22 (d) A court appointed special advocate may not disclose  
23 confidential communications between the court appointed  
24 special advocate and the child unless the court appointed  
25 special advocate determines that disclosure is necessary to

1 assist the court regarding the best interests of the child.

2 (705 ILCS 405/2-17.6 new)

3 Sec. 2-17.6. Access to child and information relating to  
4 child.

5 (a) In conjunction with an appointment under Section 2-17  
6 or Section 2-17.1, the court shall issue an order authorizing  
7 the guardian ad litem or court appointed special advocate to  
8 have immediate access to the child and any information relating  
9 to the child.

10 (b) Without requiring a further order or release, the  
11 custodian of any relevant records relating to the child,  
12 including records regarding social services, law enforcement  
13 records, school records, records of a probate or court  
14 proceeding, and records of a trust or account for which the  
15 child is a beneficiary, shall provide access to a person  
16 authorized to access the records under subsection (a).

17 (c) Without requiring a further order or release, the  
18 custodian of a medical, mental health, or drug or alcohol  
19 treatment record of a child that is privileged or confidential  
20 under any other law shall release the record to a person  
21 authorized to access the record under subsection (a), except  
22 that a child's drug or alcohol treatment record that is  
23 confidential under 42 U.S.C. 290dd-2 may only be released as  
24 provided under applicable federal regulations.

25 (d) The disclosure of a confidential record under this

1 Section does not affect the confidentiality of the record, and  
2 the person provided access to the record may not disclose the  
3 record further except as provided by court order or other law.

4 Section 10. The Illinois Marriage and Dissolution of  
5 Marriage Act is amended by changing Section 604 as follows:

6 (750 ILCS 5/604) (from Ch. 40, par. 604)

7 Sec. 604. Interviews.)

8 (a) The court may interview the child in chambers to  
9 ascertain the child's wishes as to his custodian and as to  
10 visitation, but if the child's parent or caregiver has been the  
11 subject of at least 3 indicated reports filed under the Abused  
12 and Neglected Child Reporting Act and the child is at least 4  
13 years old then the court shall interview the child in chambers  
14 to ascertain the child's wishes as to his or her custodian and  
15 as to visitation. Counsel shall be present at the interview  
16 unless otherwise agreed upon by the parties. The court shall  
17 cause a court reporter to be present who shall make a complete  
18 record of the interview instantaneously to be part of the  
19 record in the case.

20 (b) The court may seek the advice of professional  
21 personnel, whether or not employed by the court on a regular  
22 basis. The advice given shall be in writing and made available  
23 by the court to counsel. Counsel may examine, as a witness, any  
24 professional personnel consulted by the court, designated as a

1 court's witness. Professional personnel consulted by the court  
2 are subject to subpoena for the purposes of discovery, trial,  
3 or both. The court shall allocate the costs and fees of those  
4 professional personnel between the parties based upon the  
5 financial ability of each party and any other criteria the  
6 court considers appropriate. Upon the request of any party or  
7 upon the court's own motion, the court may conduct a hearing as  
8 to the reasonableness of those fees and costs.

9 (Source: P.A. 97-47, eff. 1-1-12.)".